

**UTAH LAKE DISTRIBUTING COMPANY**

**SARATOGA BRANCH**

Instruction Packet

Guide to obtain an Encroachment Agreement with the  
Utah Lake Distributing Company (ULDC)

## **Saratoga Branch**

The Utah Lake Distributing Company's (ULDC) Saratoga Branch begins below and near Camp Williams Military Base and flows south, eventually terminating at Tickville Gulch in the City of Saratoga Springs, Utah. The canal was designed and constructed by the U.S. Bureau of Reclamation (Reclamation) as a part of the Provo River Project in the early 1950s. Reclamation held an easement under the authority of the Act of August 30, 1890 (26 Stat. 371), commonly known as the Canal Act. The Canal Act essentially says that every patent to land west of the 100th meridian has an easement reserved to the U.S. and its contractors for ditches and canals that may be constructed in the future. All the lands under the Saratoga Branch were patented after the date of the Canal Act. On March 24, 2021, ownership of the Saratoga Branch was transferred from Reclamation to ULDC which makes ULDC solely responsible to authorize encroachments to the canal. The principal requirement is that encroachments not adversely impact the use, operation, or maintenance of the Saratoga Branch.

## **ULDC Application Process**

This packet is intended to assist Applicants in working with ULDC. All entities or persons proposing projects within the ULDC corridor or affecting ULDC facilities must obtain permission from ULDC prior to performing work.

This permission is usually granted with an encroachment agreement. In the encroachment agreement, ULDC grants permission for the Applicant to encroach on its right-of-way. In most instances, ULDC owns the canal corridor in fee. In some limited locations, ULDC holds a deeded easement or a prescriptive easement for the canal corridor. An encroachment agreement is (1) a license, (2) a conditioned right to encroach upon ULDC lands, and (3) a collection of contractual rights and responsibilities. It is **not** an easement but is a contract that sets out the terms and conditions under which the Applicant may encroach on the ULDC right-of-way. An encroachment agreement, or any other agreement, must be signed by the Applicant and ULDC **before** construction begins.

Franson Civil Engineers (Franson Civil) is the engineer for ULDC. Neither ULDC nor Franson Civil are responsible for design or construction of encroaching project facilities. ULDC and Franson Civil review project designs and applications in a brief fashion for the purposes of protecting the operation and maintenance of the ULDC canal only. ULDC duties regarding an encroachment run only to its shareholders. Franson Civil duties run only to ULDC. Once an encroachment agreement is executed, limited field review may be provided by Franson Civil to observe that construction appears to be in accordance with the design drawings and the encroachment agreement. The person or entity constructing an encroaching project, and their project engineers and contractors, maintain all responsibility for design and construction. No review or approval waives or modifies any encroachment agreement terms or gives ULDC or Franson Civil any responsibility for design or construction, to workers on site, or the public. It is the responsibility of the Applicant to provide ULDC and Franson Civil with accurate information so a reasonable determination can be made if the project will meet ULDC standards and will not adversely affect ULDC facilities.

## Easements

When the canal ownership was transferred from Reclamation to ULDC in 2021, the described easement in the title transfer was two rods on the downhill side of the canal (generally east) and one rod on the uphill side of the canal (generally west) measured from the center of the canal. However, there are locations that ULDC will claim a different prescriptive easement, such as south of 400 North since the canal road is on the opposite side or if the typical width does not encompass the land they need to operate and maintain the canal. In order to determine the prescriptive easement, a site visit with ULDC and Franson Civil will be required.

## Application & Review Process Guidelines

The review process can be expedited by ensuring the first submittal to Franson Civil meets ULDC standards by carefully reviewing the checklist that is provided in this packet. The following is a guideline of the typical steps for the application, review, and encroachment agreement process, though projects may vary:

- Franson Civil receives the ULDC **application, application fees, and drawings**. The review process will **not** begin until these items have been received. The application must be submitted with sufficient time to review the drawings, write and execute the agreement, and construct the facilities before April 1. Franson Civil reserves the right to decline applications or delay construction if they (or ULDC) believe the construction may interfere with delivery of water.
- Franson Civil will **review** the drawings. A meeting will be held as needed with Franson Civil, ULDC, and the Applicant to discuss the project. A redline comment letter will be sent to the Applicant with a checklist of items that must be addressed. The reviews will repeat as explained above until all items from the checklist have been addressed and plans are to the satisfaction of Franson Civil and ULDC. This typically takes two reviews.
- An **Encroachment Agreement** will be prepared between the Applicant and ULDC once all of the mentioned items above have been completed. Three copies of the agreement will be sent to the Applicant for signature.
  - After the Applicant has signed the agreement, they will need to secure the signature of the Franson Civil and the ULDC president.
- Once the agreement has been executed by all parties and the Applicant has their copy, permission has been granted to the Applicant to begin the construction phase of the project in accordance with the agreement.
- The Applicant is required to notify ULDC and Franson Civil at least 24 hours before beginning construction on ULDC facilities.
- Franson Civil and ULDC may perform limited field review to observe that construction appears to be in accordance with the design drawings and the encroachment agreement. It is the responsibility of the Applicant to perform adequate construction review to ensure the facilities are constructed to ULDC standards, and in accordance to their design drawings attached to the encroachment agreement.

- After construction is complete, the Applicant is required to schedule a **final walkthrough** that will be attended by Franson Civil and ULDC (at its option) to identify any final items that need to be completed before construction is accepted. A **punch list** will be prepared and sent to the Applicant listing items required.

The appropriate application can be obtained at [www.fransoncivil.com/canal-applications](http://www.fransoncivil.com/canal-applications).

Enclosed in this packet is a copy of the application for a general crossing and the installation of a turnout. Also included is a checklist to assist the Applicant's engineer in designing the plans to ULDC standards. This checklist is updated periodically, so downloading the most recent version of the packet for each new application is recommended.

Any questions regarding the application process can be directed to Kyle DeVaney at Franson Civil. The office phone number is 801-756-0309.